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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,508	06/07/2001	William D. Corti	FIS920010004US1	9213

29505 7590 06/25/2002

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EXAMINER

LEO, LEONARD R

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 06/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,508

Applicant(s)

CORTI ET AL.

Examiner

Leonard R. Leo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 5,7-15,17-23 and 25-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,16 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

Applicants' election with traverse of the species of Figure 2B in Paper Nos. 4 and 6 is acknowledged. The traversal is on the ground(s) that "independence and distinctness" has not been shown and the search would be the same. This is not found persuasive because MPEP 803 states "*There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must independent or distinct as claimed: and (B) There must be a serious burden on the examiner if restriction is required.*" The species are independent (MPEP 806.04) and the claims are mutually exclusive and patentably distinct from each other (MPEP 806.04(f), (h)). Furthermore, the burden is decided by the examiner, not applicants. The search and examination of multiple species is a burden, unless applicants state for the record that the species are obvious variants of one another.

The requirement is still deemed proper and is therefore made FINAL.

Claims 5, 7-15, 17-23 and 25-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Although, applicants stated only claim 6 and the generic independent claims 1, 16 and 24 are read on the elected species, claims 2-4 from which claim 6 ultimately depends are read on the elected species.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Haushalter (Figure 1).

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith (Figure 2).

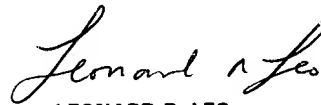
Claims 1-4, 6 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Takahashi.

Claim 24 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith-Johannsen. The "article" claimed is the flexible strip, not the integrated circuit device that merely recites the "intended use" of the "article."

Conclusion

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648.

Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.


LEONARD R. LEO
PRIMARY EXAMINER
ART UNIT 3743

June 20, 2002